

## REMARKS

Claims 1 - 11 and 13 have been rejected as unpatentable over U.S. 5,699,275 to Beasley either alone, or in combination with secondary references.<sup>1</sup> Beasley discloses a "patch process" in which a mobile unit receives a set of patch messages, merges the patches with the current operating code to create a patched operating code, and switches execution to the patched operating code.<sup>2</sup>

In the Beasley patch process, the mobile unit receives an initial patch message which includes a software version. (Step 100.) The mobile unit compares the software version provided by the initial patch message with the software version of the mobile unit's current operating code. (Step 102.) The mobile unit determines whether the software version of the current operating code is appropriate for the patches defined by the set of patch messages. (Step 104.)<sup>3</sup> If the current operating code is an appropriate version, the mobile unit checks whether the initial patch message is valid by a checksum technique or other appropriate validity check. (Step 108.)<sup>4</sup> If the patch message is valid, then the mobile unit stores the associated patch information and may also send an acknowledgment that the patch message was valid. (Step 110) The mobile unit then determines whether there are additional patch messages to be received and, if so, the mobile unit receives the next patch message. (Step 112 and Step 114). The mobile unit repeats the validity-checking and storing steps for the next patch message and continues in this manner until all patch messages are received for the patch file. The mobile unit then creates patched operating code by merging the

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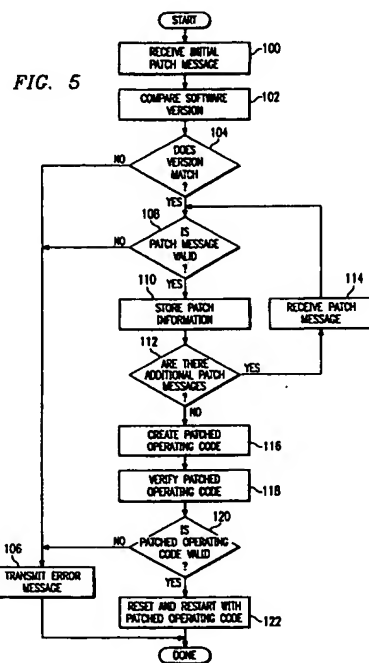
<sup>1</sup>Specifically, claims 1 and 13 have been rejected as being anticipated by U.S. 5,699,275 to Beasley; claims 5, 7, 8, 10 and 11 have been rejected as being obvious over U.S. 5,699,675 to Beasley in view of U.S. 5,909,581 to Park; claims 2, 4 and 9 have been rejected as being obvious over U.S. 5,699,675 to Beasley in view of U.S. 5,473,772 to Halliwell; and claim 3 has been rejected as being obvious over U.S. 5,699,675 to Beasley in view of U.S. 5,473,772 to Halliwell and further in view of U.S. 5,909,581 to Park.

<sup>2</sup>Beasley notes that "[a] similar operation could be used to receive several download messages defining new operating code to replace the current operating code in the mobile unit."

<sup>3</sup>If not, the mobile unit transmits an appropriate error message addressed to a manager host and/or an associated client host. (Step 106.)

<sup>4</sup>If the patch message is not valid, the mobile unit transmits an appropriate error message. (Step 106.)

patch or patches defined by the set of patch messages into the current operating code to create a patched operating code.<sup>5</sup> (Step 116.) The mobile unit verifies the patched operating code and determines whether the result of verification indicates valid patched operating code. (Step 118 and Step 120.)<sup>6</sup> If the patched operating code is valid, the mobile unit resets and restarts such that execution is switched to the patched operating code. (Step 122.) If a new set of patch messages is received, the mobile unit repeats the patching process to create and switch to new patched operating code. In this manner, the current operating code in the mobile unit may be remotely patched to provide enhancements or corrections as part of ongoing support of the mobile unit.<sup>7</sup> (See Beasley Figure 5, below.)



<sup>5</sup>Beasley notes that “[t]his process is not necessary if the mobile unit receives a set of download messages that in themselves define the new operating code to be executed.”

<sup>6</sup>If the patched operating code is not valid, the mobile unit transmits an appropriate error message. (Step 106.)

<sup>7</sup>Beasley notes that “[s]imilarly, a set of download messages can provide an entirely new version of software to replace the current version.

It is respectfully submitted that Beasley does not show or suggest the steps of determining whether the version of operating software stored in the mobile device is a current version of the operating software; and wirelessly updating the operating software stored in the mobile device if it is determined that the operating software stored therein is not the current version. In the Beasley "patch process" the mobile unit compares, in Step 102, the software version provided by the initial patch message with the software version of the mobile unit's current operating code and then determines, in Step 104, whether the software version of the current operating code "matches" the version identified in the initial patch message. If there is a match, the update process continues. If there is not a match, an error message is transmitted and the "patch process" is terminated.

Thus, the Beasley patch process does not need or want to determine whether the version of operating software stored in the mobile device is a current version of the operating software, it simply wants to prevent patch messages from being "patched" into an incompatible code. Whatever teachings the secondary references may provide regarding FTP protocol downloads (Park), version-identifying indicia (Park), host-computer requests (Halliwell), host-computer transmissions (Halliwell), and/or boot-up routines (Park), they do not cure the shortcomings of the Beasley reference. Even if one were (in hindsight) to combine these features of the secondary references with Beasley, it would not create the claimed invention, as Beasley would only be using these features to prevent incompatible code patches.

### ***Allowable Subject Matter***

The indicated allowance of independent claim 12 is noted with appreciation. Claims 14 and 15, which depend from claims 1 and 13, respectively, were not rejected in the Office Action and thus are assumed to also be allowable over the applied art.

### ***Double Patenting***

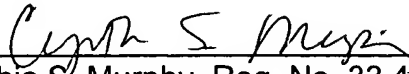
A terminal disclaimer is being submitted herewith to obviate the obvious-type double patenting rejection of claims 1 and 13.

### ***Conclusion***

In view of the foregoing, this application is now believed to be in a condition for allowance and an early indication to that effect is earnestly solicited.

Respectfully submitted,

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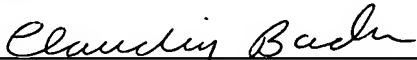
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CERTIFICATE OF MAILING (37 CFR 1.8a)

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Claudia Bader

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